

81

Notice of Allowability	Application No.	Applicant(s)	
	10/800,719	JITSUI ET AL.	
	Examiner	Art Unit	
	Cindy D. Khuu	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/23/2007.
2. ☒ The allowed claim(s) is/are 1,2 and 4-10.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
|--|---|

DETAILED ACTION

Election/Restrictions

Claims 1-2 and 4-10 are allowable. Claims 6-10, previously withdrawn from consideration as a result of a restriction requirement, require all the limitations of an allowable claim. Pursuant to the procedures set forth in MPEP § 821.04(a), **the restriction requirement between species I and II, as set forth in the Office action mailed on 06/15/2006, is hereby withdrawn** and claims 6-10 hereby rejoined and fully examined for patentability under 37 CFR 1.104. In view of the withdrawal of the restriction requirement, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Claims:

Amend the non-compliance status identifier of claim 6 from "Withdrawn, currently amended" to -- Currently amended --.

Amend the status identifier of claims 7-10 from "Withdrawn" to -- Original --.

Pertinent Art Cited

The following US Patent Applications reveal the current state of the art:

Sakai (US 6,774,804) teaches a seat (1) occupant identifying apparatus for a vehicle (Fig. 2) comprising; a right and a left sensor (load sensors; 21-22) each of which is responsive to a change in preselected physical quantity acting on a seat of a vehicle which arises from occupancy of the seat by a passenger to provide an output indicative thereof (Column 2, lines 59-67), the right sensor being disposed on a right side of a bottom surface of the seat (Figs. 2-3; Column 2, lines 59-60), the left sensor being disposed on a left side of the bottom surface of the seat (Figs. 2-3; Column 2, lines 61-62); and a seat occupant identifying circuit (26; CPU) working to identify whether the passenger on the seat is a first sized occupant (adult) of more than a specified physical size (passenger determination flag) or not (Column 4, lines 14-18), when a total sensor output (load value S) that is the sum of the outputs (Column 3, lines 50-53) of said right and left sensors is greater (over) than a first seat occupant threshold value (predetermined determination threshold value A) (Column 4, lines 29-30), said seat occupant identifying circuit determining the passenger on the seat as the first sized occupant, when the total sensor output decreases below the first seat occupant threshold value after the passenger is identified as the first sized occupant, and only either one of the outputs of said right and left sensors is smaller than a second seat occupant threshold value, the second seat occupant threshold value being (predetermined value D) smaller than the first seat occupant threshold value, said seat occupant identifying circuit keeping determination that the passenger is identified as the first sized occupant (Column 4, lines 55-67).

However, Sakai does not teach at least wherein the second seat occupant threshold value further includes a left second seat occupant threshold value corresponding to the left sensor, and a right second seat occupant threshold value corresponding to the right sensor, and wherein the left second seat occupant threshold value is different from the right second seat occupant threshold value to reflect an expected different lateral shift by the passenger.

Allowable Subject Matter

Claims 1-2 and 4-10 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for the allowance of claims 1 and 6 is the inclusion of the limitation "wherein the second seat occupant threshold value further includes a left second seat occupant threshold value corresponding to the left sensor, and a right second seat occupant threshold value corresponding to the right sensor, and wherein the left second seat occupant threshold value is different from the right second seat occupant threshold value to reflect an expected different lateral shift by the passenger". The prior art of record, taken alone or in combination, fails to disclose or render obvious.

Claims 2, 4-5 and 7-10 are allowed due to their dependency on claims 1 and 6.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Fax/Telephone Information


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy D. Khuu whose telephone number is (571) 272-8585. The examiner can normally be reached on M-F, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 2863

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

aw 5/3/07


John Easton
Supervisory Patent Examiner
Technology Center 2800